



DIVISION OF HUMAN RESOURCES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
CLASSIFICATION/COMPENSATION

TEST FOR PROFESSIONAL CREATIVE EXEMPTION FROM MINIMUM WAGE
AND OVERTIME PAY STANDARDS (29 CFR, Part 541)

Position Classification: _____ Position Number: _____
Employee Name: _____
Institution/Division: _____ Department/Unit: _____

The Fair Labor Standards Act (FLSA) considers employees subject to overtime and minimum wage requirements unless their positions have been specifically determined to be exempt. This exemption is based on an evaluation of the employee's duties and responsibilities, which may offer an exemption if the position is considered executive, administrative, professional, professional creative, or in a computer-related occupation (Section 13(a) (1)). This document is designed to apply a "test" to determine whether a position is exempt or non-exempt according to FLSA criteria.

For detailed definitions and exemption requirements:

1. click on this website: <http://www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm>
2. click on "Professional Employees."

PROFESSIONAL EMPLOYEE

An employee is exempt as professional creative, if all conditions are met.

	YES	NO
1. Is the employee compensated, on a salary or fee basis, at a rate not less than \$455 per week?		
2. Does the employee spend a majority of time in the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor?		
Discussion: Occupations that may be included as exempt: graphic artists, writers, painters, musicians, and actors. Exemption as a creative professional depends on the extent of the invention, imagination, originality, or talent that is exercised by the employee.		

Final Determination

Exempt ☐

Non Exempt
(subject) ☐

Reviewed: _____
Signature

Date: _____